IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN

PRESENT
THE HON'BLE MR. JUSTICE GODA RAGHURAM
AND
THE HONS'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION No. 9287 of 2007

Between:
S. Pandurangam.

..... PETITIONER

AND

The Chief Judge, City Small Causes Court,
Hyderabad & another

.....RESPONDENTS

THE HON'BLE MR. JUSTICE GODA RAGHURAM
AND
THE HONS'BLE MR. JUSTICE S. ANANDA REDDY

W.P.No. 9287 OF 2007

O R D E R: (Per Hon'ble Mr. Justice Goda Raghuram)

The Petitioner seeks a declaration that the action of the 1st Respondent in not promoting him as Superintendent in Category-2 of the A.P. Judicial Ministerial Services (for short 'APJMS') and instead re-designating him as such is contrary to the Rules 5 and 6 of the A.P. Judicial Ministerial Service Rules 2003.

2. According to the Petitioner, he was initially appointed as Steno/Typist on 28.08.1970 in the Unit of the Chief Judge, City Civil Court, Hyderabad and retired as Superintendent in Category-2 of the APJMS on 31.07.2006. He was working as UDC in the Court of the Additional Rent Controller, Secunderabad during 02.08.2004 to 05.08.2004.

3. The pre-existing A.P. Judicial Ministerial Service Rules, 1964 (issued in G.O.Ms.No.206, Home (Courts-A) Department, dated 17.02.1964) were superseded by the A.P. Judicial Ministerial Service Rules, 2003 (for short 'the 2003 Rules') issued in G.O.Ms.No.129, Law Department, dated 12.11.2003. The 2003 Rules came into force with effect from 5th December, 2003, the date of their publication in the gazette. There was re-organization of the constitution of the service to a certain extent under the 2003 Rules. Insofar as Category 2 of the services is concerned, the 2003 Rules provide that this Category known as Superintendents, comprises the former categories of 'Central Nazirs, Head Clerks of District Courts and Additional District Courts and Hyderabad City Courts and Sheristadars of the Sub-Courts,

Translators, Head Clerks of District Munsif Courts, U.D. Record Keepers of District Courts and Senior Superintendents of Copyists of District Courts'. Category 3 under the 2003 Rules known as 'Senior Assistants', comprises the former 'U.D.Cs., Head Clerks of Sub-Court, U.D. Bench Clerks of District Courts and Sub-Courts, and Deputy Nazirs of the Munsiff Magistrate Courts'.

4. According to the Petitioner, since he was the second in seniority amongst Senior Assistants as on the date of coming into force of the 2003 Rules, he should have been promoted as Superintendent in Category-2. Instead, he was treated as having been re-designated/upgraded as Superintendent of Copying Section and was shown as belonging to Category-2 under the 2003 Rules. The pay of the Petitioner was determined invoking the provisions of Fundamental Rule 22-A and he was given benefits accordingly. A subsequent order of the 1st Respondent, dated 16.12.2005 declared that the Petitioner is not entitled to an increment by treating his appointment as Superintendent in Category-2 under the 2003 Rules as an upgradation or promotion. Consequently, the Petitioner's pay was re-fixed and it was directed that the excess amount drawn be recovered in five equal monthly installments commencing from the salary payable for December 2005. Against this order, the Petitioner preferred an administrative appeal to the 2nd Respondent. By the order dated 14.09.2006 in ROC No.594/2006-C1, the 2nd Respondent rejected the appeal of the Petitioner.

5. The Petitioner has not assailed either the order of the 1st Respondent dated 16.12.2005 or the order of the 2nd

Respondent rejecting his appeal, dated 14.09.2006. Instead, he filed the writ petition asserting that he ought to have been promoted as Superintendent, instead of re-designating him as Superintendent pleading that had he been promoted as Superintendent, he would have been entitled to the benefits of such promotion including under FR-22(A).

6. After rejection of the appeal by the 2nd Respondent on 14.09.2006, the Petitioner submitted another representation, dated 16.12.2006 for modification of the order of the 1st Respondent, dated 04.08.2004 (whereby the Petitioner was specified to have been re-designated as Superintendent). The 1st Respondent rejected this representation by an order dated 21.03.2007. The 1st Respondent by another order dated 04.04.2007 corrected certain clerical errors in the earlier order dated 21.03.2007. Thereafter, the writ petition was filed.

7. By an order dated 04.08.2004 issued consequent to the order dated 03.08.2004 of the 1st Respondent, the Petitioner was treated as re-designated/ upgraded as Superintendent, having regard to the fact that he was factually holding the post of Superintendent of Copying Section. By the earlier order dated 03.08.2004, the Petitioner, who was working as U.D.Clerk in the Court of Additional Rent Controller, Secunderabad, was transferred and posted as Superintendent, Copying Section in the City Small Causes Court. On the basis of the order, dated 03.08.2004, the Petitioner was assumed to be substantively holding the post of Superintendent Copying Section. Since the post of Superintendent of Copying Section is one of the posts enumerated in Category-2 Superintendents under the 2003

Rules, the 1st Respondent passed the order dated 04.08.2004, treating the Petitioner as having been upgraded/re-designated as Superintendent.

8. Whether the order merely posting him as Superintendent of Copying Section on 03.08.2004 and consequently treating the Petitioner as having been re-designated as Superintendent by the first order of the 1st Respondent, dated 04.08.2004 is a valid exercise, having regard to the fact that the petitioner was substantively only an UDC as on the date of coming into force of the 2003 Rules, is an issue that would have been relevant, had the Petitioner challenged the order dated 04.08.2004 shortly after its issuance or at least soon after the rejection of his representation against the said order by the 1st Respondent's order dated 16.02.2005, or at least immediately after the rejection of his appeal by the 2nd Respondent, by the order dated 14.09.2006. The Petitioner has chosen not to assail either the first or the second order aforementioned. Since the order dated 04.08.2004 treats the Petitioner as having been re-designated as Superintendent and the Petitioner's representation against the said order was also rejected by the Respondents 1 and 2 by the orders above referred to, which have not been challenged in this writ petition, the issue urged by the Petitioner for consideration viz., 'Whether his treatment as having been re-designated as Superintendent is valid?' cannot be considered in this writ petition.

9. In the above circumstances, the writ petition is devoid of merits and is accordingly dismissed. No costs.

_____

Goda Raghuram, J.

_____

Dt. 26.09.2007 S. Ananda
Reddy, J.
Kvh

THE HON'BLE MR. JUSTICE GODA RAGHURAM
AND
THE HONS'BLE MR. JUSTICE S. ANANDA REDDY

W.P.No. 9287 OF 2007

O R D E R

(Per Hon'ble Mr. Justice Goda Raghuram)

26…09…2007